

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

JEFFERY BUSBY,

Civil Action No.: 16-CV-02156-JNE-FLN

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Jeffery Busby in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 filed on August 3, 2017.
3. Mr. Busby contacted Kennedy Hodges, LLP in June of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. Busby's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records demonstrate use of a Bair Hugger device during his original orthopedic surgery.

5. This case was filed on June 24, 2016 to comply with the statute of limitations deadline.
6. Initial efforts to contact Mr. Busby regarding the Plaintiff Fact Sheet were complicated by a phone number that was determined to be invalid. However, we were able to obtain a new phone number for Mr. Busby after he responded to a contact letter from our office.
7. Over the next few months, Counsel attempted to work with Mr. Busby to obtain the information necessary to complete the Plaintiff Fact Sheet. Mr. Busby was somewhat cooperative and provided some answers, but was unable to provide all the information necessary. Despite the efforts of Counsel and staff, the Plaintiff Fact Sheet is still incomplete.
8. After our last contact with Mr. Busby on February 22, 2017, several phone calls were placed to Mr. Busby by staff at Kennedy Hodges. These calls went unanswered, and voice messages left with Mr. Busby were not returned.
9. Additionally, several letters have been sent to Mr. Busby since our last phone conversation requesting that he contact us.
10. Based on information and belief, Mr. Busby has not made any attempt to contact Kennedy Hodges in response to these phone calls and letters in order to provide the information necessary to complete the Plaintiff Fact Sheet.
11. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged

deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

August 10, 2017

/s/ Donald C. Green II
Donald C. Green II